

THE AMENDMENT

Claims 1-8 and 10-35 are in the case. Claims 1, 5 and 21 have been amended. Claims 30-35 are new.

The amendment to claims 1 and 21 regarding a random number generator being used to determine and communicate the game outcome is supported by ¶[59]-[61] at pp 9-10 of the Specification.

The amendment to claim 5 is to correct a typographical/grammatical error that is apparent from its context.

New claim 30 is supported by ¶[134] at page 32 of the Specification where reel mechanisms are disclosed in conjunction with the three-dimensional section parts.

New claim 31 (and dependent claims 32-35) are based on original claims 16-20 and the disclosures at ¶[115]-[125] at pp 26-29 of the Specification, in particular, the “formation of whole, coherent, integrated, recognizable images” and selectively “positioning one three-dimensional section relative to other sections” (¶[115]-[116] and ¶[125]).

Applicants respectfully submit that the Amendment does not introduce new matter and request that the Amendment be entered.

REMARKS

1. A Brief Summary of One Embodiment of Applicants' Invention

In one embodiment, the present invention is directed to a gaming device involving a three-dimensional figure comprising a plurality of three-dimensional sections, each having a height, a width, and a depth. At least one three-dimensional section is moveable relative to the other three dimensional sections and comprises a plurality of three-dimensional fractional

images. The moveable three-dimensional section may be positionable to allow a player to view the plurality of three-dimensional fractional images by moving the moveable three-dimensional section. When the moveable three-dimensional section is in at least one position, the plurality of three-dimensional sections forms at least one whole, integrated three-dimensional image. The gaming device also comprises an actuator attached to the moveable three-dimensional section that is configured to move the moveable three-dimensional section. The gaming device also includes a controller in communication with the actuator, where the controller comprises a random number generator and is configured to randomly determine a game outcome and to cause the actuator to move the moveable three-dimensional section.

2. Rejection of claims 1, 2, 4, 6-8, 10-11, 13, 16-17, 19, 21, 23 and 26-29 under 35 USC §102(b) as being unpatentable over Gutknecht (U.S. Patent No. 5,154,420).

Claims 1, 2, 4, 6-8, 10-11, 13, 16-17, 19, 21, 23 and 26-29 stand rejected under 35 USC §102(b) as being anticipated by Gutknecht. Applicants respectfully traverse the rejection.

Gutknecht appears to disclose a game apparatus which utilizes a representation of a coin which may have depictions, i.e., heads or tails, on each side, and being divided into a central member and an outer member with this central member being centrally mounted within the outer member. Both the central and outer members are capable of being revolved on separate rotating axes. A player is to guess at what position the coin will assume after revolving of the inner member and outer member and, if the player is correct, a certain pre-established payout arrangement will be granted to the player.

Regarding independent claims 1, 16 and 21, the Office contends that Gutknecht teaches at least one controller configured to randomly determine the game outcome and cause an actuator

to move the moveable three-dimensional section to at least partially convey the game outcome to the player. The Office cites elements **36, 38, 40, 42** and **46** as the “controllers” as well as Fig. 1 and **col 5:11-24** of Gutknecht to support this contention. However, buttons **36, 38, 40** and **42** (Figure 1) of Gutknecht are not controllers, but simply input means for the player to select a possible matching pattern for the final “winning” symbol configuration after spinning of coin **52** has been terminated – see **col 1:59** to **col 2:4**, **col 2:53-61**, **col 3:3-9** and **51-59**, **col 4:6-16** and **col 5:11-24** of Gutknecht for specific descriptions of buttons **36, 38, 40** and **42**.

In addition, element **46** is referred to elsewhere in Gutknecht as a “starter” button, not a controller. The supporting citation from Gutknecht relied upon by the Office regarding “controllers” merely describes buttons **36, 38, 40** and **42** as activating/deactivating motors/solenoids to stop outer member **58** (of coin **52**) at a heads/tails position; see **col 5:11-24** of Gutknecht (excerpted below):

“When one of the buttons 36, 38, 40 and 42 are pressed, the motors contained within the motor housings 90 and 92 are deactivated as well as the solenoid 140. This permits the bias of the spring 118 to then cause the arm 122 to move in a leftward direction, as shown in FIG. 4, which in turn will cause the arm 108 to pivot counterclockwise. This will result in the arm 104 coming into contact with the periphery of the wheel 98. As the wheel 98 continues to rotate it only takes a few degrees of rotation for arm 104 to engage with one of the cam surfaces 102 and then hence engage with the slot 100. Hence the outer member 58 is now randomly stopped at either the heads or tails position.”

There is no teaching or suggestion anywhere in Gutknecht of a controller randomly determining a game outcome using a random number generator to generate a combination/arrangement of fractional three-dimensional images, as required by Applicants’ amended independent claim 1, original independent claim 16 and amended independent claim 21. Further, there is no teaching or suggestion by Gutknecht that the controller (after

determining the random game outcome), causes an actuator to move/select/position a particular three-dimensional section/image to at least partially convey the game outcome to the player.

The selection/activation/deactivation buttons (36, 38, 40, 42 and 46) of Gutknecht merely provide for the selection of a potential winning configuration of the coin members once the different members of coin 52 have stopped moving; there is no random number generation (or suggestion thereof), followed by a selection/positioning of a coin member corresponding to a combination/arrangement determined by the random number generator, to convey the game outcome.

Applicants respectfully submit that elements (C) and (D) of amended independent claim 1; elements (C), (D), (E) and (F) of original independent claim 16; and element (C) of amended independent claim 21 (as well as elements (C), (D) and (E) of new independent claim 31) are not taught or suggested anywhere in Gutknecht. In order to establish anticipation, the Office must provide a reference that teaches every element of the claim: “a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814, F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); see MPEP 2131.

Accordingly, since Gutknecht does not satisfy this requirement, Applicants respectfully request that the rejection of claims 1, 2, 4, 6-8, 10-11, 13, 16-17, 19, 21, 23 and 26-29 under 35 USC §102(b) be withdrawn.

3. Rejection of claims 3, 5, 14, 18, 22 and 25 under 35 USC §103(a) as being unpatentable over Gutknecht (U.S. Patent No. 5,154,420) in view of Lupo (U.S. Patent Application Publication 2002/0111204).

Claims 3, 5, 14, 18, 22 and 25 stand rejected under 35 USC §103(a) as being obvious over Gutknecht in view of Lupo. Applicants respectfully traverse the rejection.

Lupo appears to disclose a three-dimensional Tic-Tac-Toe-type computer game depicting a rotatable playing structure and a number of separate substructures, where each substructure within the playing structure has mutable characteristics when viewed prospectively on the computer. Lupo appears to teach games that depend on logic and deductive skills (see Abstract) where each player is competing with another game player or the game controller; as such, Lupo does not deal with activities that involve games of chance, i.e., dependent upon randomly determined game outcomes.

According to 706.02(j), to support a conclusion that a claimed invention is directed to obvious subject matter, the “references must expressly or impliedly suggest the claimed invention,” i.e., all claims limitations must be considered. Since dependent claims 3, 5, 14, 18, 22 and 25 derive from independent claims 1, 16 and 21, respectively, Applicants rely upon the arguments presented above in Section 2 regarding the patentability of the independent claims. Lupo, in addition to not being related to games of chance, does not address the previously presented deficiencies of Gutknecht. Therefore, Applicants submit that a *prima facie* case of obviousness has not been established and respectfully request withdrawal of the rejection under 35 USC §103(a).

4. Rejection of claim 12 under 35 USC §103(a) as being unpatentable over Gutknecht (U.S. Patent No. 5,154,420) in view of Ikenaga (U.S. Patent Application Publication 2003/0067113).

Claim 12 stands rejected under 35 USC §103(a) as being obvious over Gutknecht in view of Ikenaga. Applicants respectfully traverse the rejection.

According to 706.02(j), to support a conclusion that a claimed invention is directed to obvious subject matter, the “references must expressly or impliedly suggest the claimed invention,” i.e., all claims limitations must be considered. Since dependent claim 12 derives from independent claim 1, Applicants rely upon the arguments presented above in Section 2 regarding the patentability of the independent claims. Ikenaga, in addition to not being related to games of chance, does not address the previously presented deficiencies of Gutknecht. Therefore, Applicants submit that a *prima facie* case of obviousness has not been established and respectfully request withdrawal of the rejection under 35 USC §103(a).

5. Rejection of claims 15, 20 and 24 under 35 USC §103(a) as being unpatentable over Gutknecht (U.S. Patent No. 5,154,420) in view of Inoue (U.S. Patent No. 5,722,891).

Claims 15, 20 and 24 stand rejected under 35 USC §103(a) as being obvious over Gutknecht in view of Inoue. Applicants respectfully traverse the rejection.

According to 706.02(j), to support a conclusion that a claimed invention is directed to obvious subject matter, the “references must expressly or impliedly suggest the claimed invention,” i.e., all claims limitations must be considered. Since dependent claims 15, 20 and 24 derive from independent claims 1, 16 and 21, respectively, Applicants rely upon the arguments presented above in Section 2 regarding the patentability of the independent claims. Inoue does not address the previously presented deficiencies of Gutknecht. Therefore, Applicants submit that a *prima facie* case of obviousness has not been established and respectfully request withdrawal of the rejection under 35 USC §103(a).

Conclusion

For all of the above reasons, the Applicants submit that the present application is in condition for allowance. If the Examiner has any questions regarding the application or this response, the Examiner is encouraged to call the applicant's attorney, Ian F. Burns, at (775) 826-6160.

Respectfully submitted,

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